

**THE STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DT 09-198**

**segTEL, INC.**

**Petition to Rescind Authorization to Provide**

**Local Exchange Service in All New Hampshire Exchanges**

**ORDER OF NOTICE**

On October 15, 2009, Granite State Telephone, Inc., Dunbarton Telephone Company, Inc., Bretton Woods Telephone Company, and Dixville Telephone Company (together the Rural ILECs) filed with the New Hampshire Public Utilities Commission (Commission) a petition to rescind, or to declare null and void, the authorization issued on March 3, 2009, to segTEL, Inc. (segTEL) to provide local exchange service in all New Hampshire telephone exchanges.

In their petition the Rural ILECs claim that the Commission: (1) failed to provide them with a notice and a hearing as required by RSA 374:26; (2) failed to make findings as required by RSA 374:22-g; and (3) failed to issue an order compliant with RSA 363:17-b and RSA 541-A:35.

On May 20, 2010, the New Hampshire Supreme Court (Court) issued its opinion in Appeal of Union Telephone Company d/b/a Union Communications (Union). Union appealed the Commission's grant of permission for MetroCast Cablevision of New Hampshire, LLC (MetroCast) to provide telephone services in Union's service territory. The Court held that RSA 374:22-g and RSA 374:26 require a notice and hearing before granting a competitive local exchange carrier (CLEC) such as MetroCast a franchise to provide telephone services. The Court remanded the question of whether federal law preempts such a state notice and hearing

requirement, observing that resolving the preemption question “may entail additional fact finding.” The Commission has scheduled a prehearing conference for July 1, 2010 in Docket Nos. DT 08-130, MetroCast Cablevision of New Hampshire and DT 09-065, IDT America Corp. to develop appropriate procedures for conducting the remand proceeding.

The filing raises, inter alia, issues related to the process required by RSA 374:22, RSA 374:22-g and RSA 374:26 and the question of whether federal telecommunications law, including 47 U.S.C. §§ 151 et seq., preempts or imposes any restrictions on the hearing and notice requirements of New Hampshire statutes governing CLEC entry into incumbent local exchange carrier (ILEC) service territories. Each party has the right to have an attorney represent them at his or her own expense.

**Based upon the foregoing, it is hereby**

**ORDERED**, that a Prehearing Conference, pursuant to N.H. Admin. Rules Puc 203.15, be held before the Commission located at 21 S. Fruit St., Suite 10, Concord, New Hampshire on July 1, 2010 at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the petition and the Court’s remand order and any of the issues set forth in N.H. Admin. Rule Puc 203.15 shall be considered; and it is


**FURTHER ORDERED**, that, following the Prehearing Conference, the Staff of the Commission, the Rural ILECs, segTEL and any Intervenors hold a Technical Session to review the petition and questions presented by the Court’s remand order; and it is

**FURTHER ORDERED**, that pursuant to N.H. Admin. Rules Puc 203.12, the Executive Director shall notify all persons desiring to be heard at this hearing by posting a copy of this Order of Notice on the Commission’s website and by sending an electronic copy of this Order of Notice to all CLECs and ILECs authorized to provide telecommunications in the state; and it is

**FURTHER ORDERED**, that pursuant to N.H. Admin. Rules Puc 203.17, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to the parties and the Office of the Consumer Advocate on or before June 28, 2010, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, as required by N.H. Admin. Rule Puc 203.17 and RSA 541-A:32, I(b); and it is

**FURTHER ORDERED**, that any party objecting to a Petition to Intervene make said Objection on or before July 1, 2010.

By order of the Public Utilities Commission of New Hampshire this eleventh day of June, 2010.

  
Debra A. Howland  
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability, should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.